



State of Wisconsin
2013 - 2014 LEGISLATURE

D-N



RMR

LRB-0387/17

MGG:sac:ph

8/17/17

DOA:.....Stritchko, BB0095 - Transfer of DSPS programs to DATCP

FOR 2013-2015 BUDGET — NOT READY FOR INTRODUCTION

NS!

NOT ger

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

SAFETY AND PROFESSIONAL SERVICES

BUILDINGS AND SAFETY

Under current law, DSPS has various duties and powers relating to regulation of petroleum products and hazardous substances:

1. DSPS prescribes grade specifications for gasoline and similar fuels and administers laws regulating the inspection and sale of those fuels and other petroleum products.

2. DSPS regulates the installation, maintenance, and removal of tanks that contain flammable or combustible liquids or federally regulated hazardous substances (dangerous materials).

3. DSPS is required to administer a program to inventory aboveground and underground petroleum storage tanks.

This bill transfers these powers and duties except for those that relate to the reviewing of plans for dangerous materials from DSPS to DATCP.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.115 (1) (gc) of the statutes is created to read:

2 20.115 (1) (gc) *Testing of petroleum products.* All moneys received from fees
3 collected under s. 93.06 (1pm) for the testing of petroleum products under s. 93.06
4 (1pm).

 ****NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

5 **SECTION 2.** 20.115 (1) (t) of the statutes is created to read:

6 20.115 (1) (t) *Petroleum products; petroleum inspection fund.* From the
7 petroleum inspection fund, the amounts in the schedule for the purposes of ch. 168.

 ****NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

8 **SECTION 3.** 20.165 (2) (a) of the statutes is amended to read:

9 20.165 (2) (a) *General program operations.* The amounts in the schedule for
10 general program operations relating to the regulation of industry, buildings, and
11 safety under chs. 101, 107, and 145, ~~and 168~~ and ss. 167.10 and 167.27.

12 **SECTION 4.** 20.165 (2) (dm) of the statutes is renumbered 20.115 (1) (c) and
13 amended to read:

14 20.115 (1) (c) *Storage Petroleum products; storage tank inventory.* The amounts
15 in the schedule to conduct an inventory of aboveground petroleum product storage
16 tanks and unused underground petroleum product storage tanks under s. ~~101.142~~
17 168.28.

 ****NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

18 **SECTION 5.** 20.165 (2) (ga) of the statutes is amended to read:

19 20.165 (2) (ga) *Auxiliary services Publications and seminars.* All moneys
20 received from fees collected under s. 101.02 (18) ~~and (18m)~~ for the delivery of ~~services~~
21 publications and seminars under s. 101.02 (18) ~~and (18m)~~.

use
note: reconciliation

NOTE: This is reconciled s. 20.165(2)(r). This section has been affected by drafts with the following

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

LRB #s:

LRB-0387

and LRB-1092.

SECTION 6. 20.165 (2) (j) of the statutes is amended to read:

20.165 (2) (j) *Safety and building operations*. The amounts in the schedule for the purposes of chs. 101, and 145, ~~and 168~~ and ss. 167.35, 236.12 (2) (a), 236.13 (1) (d) and (2m), and 236.335, for the purpose of transferring the amounts in the schedule under par. (kg) to the appropriation account under par. (kg), and for the purpose of transferring the amounts in the schedule under par. (km) to the appropriation account under par. (km). All moneys received under ch. 145, ss. 101.178, 101.19, 101.63 (9), 101.654 (3), 101.73 (12), 101.82 (4), 101.955 (2), 101.973 (7), 167.35 (2) (f), and 236.12 (7) and all moneys transferred under 2005 Wisconsin Act 45, section 76 (6), shall be credited to this appropriation.

SECTION 7. 20.165 (2) (ma) of the statutes is amended to read:

20.165 (2) (ma) *Federal aid-program administration*. All moneys received from the federal government, as authorized by the governor under s. 16.54, to fund the state's administrative costs for general program operations relating to the regulation of industry, buildings and safety under chs. 101, 107, and 145 ~~and 168~~ and ss. 32.19 to 32.27, 167.10, and 167.27.

SECTION 8. 20.165 (2) (r) of the statutes is amended to read:

20.165 (2) (r) *Safety and building operations; petroleum inspection fund*. From the petroleum inspection fund, the amounts in the schedule for the purposes of ~~ch. 168~~ and ss. 101.09, 101.142, and s. 101.143 ~~and for plan reviews relating to flammable or combustible liquids or federally regulated hazardous substances.~~

SECTION 9. 25.47 (7) of the statutes is amended to read:

25.47 (7) The fees imposed under s. ~~101.09 (3) (d)~~ 101.02 (18r).

1 **SECTION 10.** 25.47 (8) of the statutes is created to read:

2 25.47 (8) The fees imposed under s. 168.23 (4).

3 **SECTION 11.** 45.44 (1) (a) 5. of the statutes is amended to read:

4 45.44 (1) (a) 5. A license, certification, registration, or permit issued under s.
5 94.10 (2), (3), or (3g), 94.50 (2), 94.704, 95.60, 97.17 (2), 97.175 (2), 97.22 (2), 98.145,
6 98.146, ~~or~~ 98.18 (1) (a), or 168.23 (3).

7 **SECTION 12.** 73.0301 (1) (d) 6m. of the statutes is created to read:

8 73.0301 (1) (d) 6m. A certificate or registration issued under 168.23 (3).

9 **SECTION 13.** 73.0301 (1) (e) of the statutes is amended to read:

10 73.0301 (1) (e) “Licensing department” means the department of
11 administration; the department of agriculture, trade and consumer protection; the
12 board of commissioners of public lands; the department of children and families; the
13 government accountability board; the department of financial institutions; the
14 department of health services; the department of natural resources; the department
15 of public instruction; the department of safety and professional services; the
16 department of workforce development; the office of the commissioner of insurance;
17 or the department of transportation.

18 **SECTION 14.** 93.135 (title) of the statutes is amended to read:

19 **93.135 (title) License denial, nonrenewal, suspension or restriction**
20 **based on failure to pay support or taxes.**

21 **SECTION 15.** 93.135 (1) (rg) of the statutes is created to read:

22 93.135 (1) (rg) A certification or registration under s. 168.23 (3).

23 **SECTION 16.** 93.135 (4) of the statutes is created to read:

24 93.135 (4) The department shall deny an application for the issuance or
25 renewal of certification or registration under s. 168.23 (3), or shall suspend or restrict

1 such a certification or registration, if the department of revenue certifies under s.
2 73.0301 that the holder of the certification or registration is liable for delinquent
3 taxes.

4 **SECTION 17.** 98.246 (1) of the statutes is amended to read:

5 98.246 (1) In this section, "petroleum products" has the meaning given under
6 s. ~~168.03~~ 168.01 (3).

7 **SECTION 18.** 101.02 (18m) of the statutes is renumbered 93.06 (1pm) and
8 amended to read:

9 **93.06 (1pm) TESTING OF PETROLEUM PRODUCTS.** The department may perform,
10 or contract for the performance of, testing of petroleum products other than testing
11 provided under ch. 168. The department may establish a schedule of fees for such
12 petroleum product testing services. The department shall credit all revenues
13 received from fees established under this subsection to the appropriation account
14 under s. ~~20.165 (2) (ga)~~ 20.115 (1) (gc). Revenues from fees established under this
15 subsection may be used by the department to pay for testing costs, including
16 laboratory supplies and equipment amortization, for such products.

17 **SECTION 19.** 101.02 (18r) of the statutes is created to read:

18 101.02 (18r) The department shall promulgate a rule specifying fees for plan
19 reviews relating to the storage, handling, or use of flammable or combustible liquids
20 or federally regulated hazardous substances, as defined in s. 168.21 (3).

21 **SECTION 20.** 101.02 (20) (a) of the statutes is amended to read:

22 101.02 (20) (a) For purposes of this subsection, "license" means a license,
23 permit, or certificate of certification or registration issued by the department for an
24 occupation or profession under s. ~~101.09 (3) (e)~~, 101.122 (2) (c), 101.143 (2) (g),
25 101.147, 101.15 (2) (e), 101.16 (3g), 101.17, 101.178 (2) or (3) (a), 101.63 (2) or (2m),

1 101.653, 101.73 (5) or (6), 101.82 (1m), (1v), and (2), 101.935, 101.95, 101.951,
2 101.952, 101.96 (2), 101.985 (1) to (3), 145.02 (4), 145.035, 145.045, 145.15, 145.16,
3 145.165, 145.17, 145.175, 145.18, or 167.10 (6m) or under rules promulgated under
4 ch. 101 or 145.

5 **SECTION 21.** 101.02 (21) (a) of the statutes is amended to read:

6 101.02 (21) (a) In this subsection, "license" means a license, permit, or
7 certificate of certification or registration issued by the department for an occupation
8 or profession under s. ~~101.09 (3) (e)~~, 101.122 (2) (c), 101.143 (2) (g), 101.147, 101.15
9 (2) (e), 101.16 (3g), 101.17, 101.178 (2) or (3) (a), 101.63 (2) or (2m), 101.653, 101.73
10 (5) or (6), 101.82 (1m), (1v), and (2), 101.935, 101.95, 101.951, 101.952, 101.96 (2),
11 101.985 (1) to (3), 145.02 (4), 145.035, 145.045, 145.15, 145.16, 145.165, 145.17,
12 145.175, 145.18, or 167.10 (6m) or under rules promulgated under ch. 101 or 145.

13 **SECTION 22.** 101.02 (24) (a) 2. of the statutes is amended to read:

14 101.02 (24) (a) 2. "License" means a license, permit, or certificate of
15 certification or registration issued by the department for an occupation or profession
16 under s. ~~101.09 (3) (e)~~, 101.122 (2) (c), 101.143 (2) (g), 101.147, 101.15 (2) (e), 101.16
17 (3g), 101.17, 101.177 (4) (a), 101.178 (2) or (3) (a), 101.63 (2) or (2m), 101.653, 101.654,
18 101.73 (5) or (6), 101.82 (1m), (1v), and (2), 101.935, 101.95, 101.951, 101.952,
19 101.985 (1) to (3), 145.02 (4), 145.035, 145.045, 145.15, 145.16, 145.165, 145.17,
20 145.175, 145.18, or 167.10 (6m) or under rules promulgated under ch. 101 or 145.

21 **SECTION 23.** 101.09 (title) of the statutes is repealed.

22 **SECTION 24.** 101.09 (1) (intro.) of the statutes is renumbered 168.21 (intro.) and
23 amended to read:

24 **168.21 Definitions.** (intro.) In this section subchapter:

25 **SECTION 25.** 101.09 (1) (a) of the statutes is renumbered 168.21 (1).

1 **SECTION 26.** 101.09 (1) (am) of the statutes is renumbered 168.21 (3).

2 **SECTION 27.** 101.09 (1) (b) of the statutes is renumbered 168.21 (4).

3 **SECTION 28.** 101.09 (1) (c) of the statutes is renumbered 168.21 (5).

4 **SECTION 29.** 101.09 (1) (cm) of the statutes is renumbered 168.21 (6).

5 **SECTION 30.** 101.09 (1) (d) of the statutes is renumbered 168.21 (7).

6 **SECTION 31.** 101.09 (2) (title) of the statutes is renumbered 168.22 (title).

7 **SECTION 32.** 101.09 (2) (a) of the statutes is renumbered 168.22 (1) and
8 amended to read:

9 168.22 (1) Except as provided under ~~pars. (b) to (d)~~ subs. (2) to (5), every person
10 who constructs, owns or controls a tank for the storage, handling or use of liquid that
11 is flammable or combustible or a federally regulated hazardous substance shall
12 comply with the standards adopted under ~~sub. (3)~~ s. 168.23.

13 **SECTION 33.** 101.09 (2) (b) of the statutes is renumbered 168.22 (2) and
14 amended to read:

15 168.22 (2) This section subchapter does not apply to storage tanks which
16 require a hazardous waste license under s. 291.25.

17 **SECTION 34.** 101.09 (2) (c) of the statutes is renumbered 168.22 (3) and
18 amended to read:

19 168.22 (3) This section subchapter does not apply to storage tanks which are
20 installed above ground level and which are less than 5,000 gallons in capacity.

21 **SECTION 35.** 101.09 (2) (cm) (intro.) of the statutes is renumbered 168.22 (4)
22 (intro.) and amended to read:

23 168.22 (4) (intro.) Any rules promulgated under ~~sub. (3)~~ s. 168.23 requiring an
24 owner to test the ability of a storage tank, connected piping or ancillary equipment

1 to prevent an inadvertent release of a stored substance do not apply to storage tanks
2 that satisfy all of the following:

3 **SECTION 36.** 101.09 (2) (cm) 1. to 3. of the statutes are renumbered 168.22 (4)
4 (a) to (c).

5 **SECTION 37.** 101.09 (2) (d) of the statutes is renumbered 168.22 (5) and
6 amended to read:

7 168.22 (5) This ~~section~~ subchapter does not apply to a pressurized natural gas
8 pipeline system regulated under 49 CFR 192 and 193.

9 **SECTION 38.** 101.09 (3) (title) of the statutes is renumbered 168.23 (title).

10 **SECTION 39.** 101.09 (3) (a) of the statutes is renumbered 168.23 (1).

11 **SECTION 40.** 101.09 (3) (b) of the statutes is renumbered 168.23 (2) and
12 amended to read:

13 168.23 (2) The department may transfer any information which the
14 department receives under ~~par. (a)~~ sub. (1) to any other agency or governmental unit.
15 The department and any such agency shall treat the name of the owner and the
16 location of any noncommercial storage tank which stores heating oil for consumptive
17 use on the premises, required to be submitted to the department under ~~par. (a)~~ sub.
18 (1), as confidential and shall not permit inspection or copying under s. 19.35 of any
19 record containing the information.

20 **SECTION 41.** 101.09 (3) (c) of the statutes is renumbered 168.23 (3) and
21 amended to read:

22 168.23 (3) The rule promulgated under ~~par. (a)~~ sub. (1) may require the
23 certification or registration of persons who install, remove, clean, line, perform
24 tightness testing on and inspect tanks and persons who perform site assessments.
25 Any rule requiring certification or registration shall also authorize the revocation or

1 suspension of the certification or registration. The department may not require an
2 individual who is eligible for the veterans fee waiver program under s. 45.44 to pay
3 any fee that may be charged pursuant to such a rule.

4 **SECTION 42.** 101.09 (3) (d) of the statutes is renumbered 168.23 (4) and
5 amended to read:

6 168.23 (4) The department shall promulgate a rule specifying fees for plan
7 review and inspection of tanks for the storage, handling, or use of flammable or
8 combustible liquids and for any certification or registration required under par. (e)
9 sub. (3).

10 **SECTION 43.** 101.09 (3m) (title) of the statutes is renumbered 168.24 (title).

11 **SECTION 44.** 101.09 (3m) (a) of the statutes is renumbered 168.24 (1) and
12 amended to read:

13 168.24 (1) In this ~~subsection~~ section, “hazardous substance” means a
14 combustible liquid, a flammable liquid, or a federally regulated hazardous
15 substance.

16 **SECTION 45.** 101.09 (3m) (b) of the statutes is renumbered 168.24 (2) and
17 amended to read:

18 168.24 (2) The department may not impose any requirement that specifies that
19 pipe connections at the top of a storage tank and beneath all freestanding pumps and
20 dispensers that routinely contain a hazardous substance be placed within secondary
21 containment sumps, if the pipe connections were installed or in place on or before
22 February 1, 2009. This ~~subsection~~ section does not apply after December 31, 2020.

23 **SECTION 46.** 101.09 (4) (title) of the statutes is renumbered 168.25 (title).

24 **SECTION 47.** 101.09 (4) (a) of the statutes is renumbered 168.25 (1) and
25 amended to read:

1 168.25 (1) The department shall enforce this ~~section~~ subchapter.

2 **SECTION 48.** 101.09 (4) (b) of the statutes is renumbered 168.25 (2) and
3 amended to read:

4 168.25 (2) The department shall issue orders directing and requiring
5 compliance with the rules and standards of the department adopted under this
6 ~~section~~ subchapter whenever, in the judgment of the department, the rules or
7 standards are threatened with violation, are being violated or have been violated.

8 **SECTION 49.** 101.09 (4) (c) of the statutes is renumbered 168.25 (3).

9 **SECTION 50.** 101.09 (5) of the statutes is renumbered 168.26 and amended to
10 read:

11 **168.26 Penalties.** Any person who violates this ~~section~~ subchapter or any rule
12 or order adopted under this ~~section~~ subchapter shall forfeit not less than \$10 nor
13 more than \$5,000 for each violation. Each violation of this ~~section~~ subchapter or any
14 rule or order under this ~~section~~ subchapter constitutes a separate offense and each
15 day of continued violation is a separate offense.

16 **SECTION 51.** 101.14 (5) (a) of the statutes is amended to read:

17 101.14 (5) (a) Subject to par. (b), in addition to any fee charged by the
18 department by rule for plan review and approval for the construction of a new or
19 additional installation or change in operation of a previously approved installation
20 for the storage, handling or use of a liquid that is flammable or combustible or a
21 federally regulated hazardous substance, as defined in s. ~~101.09 (1) (am)~~ 168.21 (3),
22 the department shall collect a groundwater fee of \$100 for each plan review
23 submittal. The moneys collected under this subsection shall be credited to the
24 environmental fund for environmental management.

25 **SECTION 52.** 101.14 (5) (b) of the statutes is amended to read:

1 101.14 (5) (b) Notwithstanding par. (a), an installation for the storage,
2 handling or use of a liquid that is flammable or combustible or a federally regulated
3 hazardous substance, as defined in s. ~~101.09 (1) (am)~~ 168.21 (3), that has a capacity
4 of less than 1,000 gallons is not subject to the groundwater fee under par. (a).

5 **SECTION 53.** 101.142 (title) and (1) (intro.) of the statutes are renumbered
6 168.28 (title) and (1) (intro.).

7 **SECTION 54.** 101.142 (1) (a) of the statutes is renumbered 168.28 (1) (a) and
8 amended to read:

9 168.28 (1) (a) "~~Petroleum~~ Notwithstanding s. 168.01 (3), "petroleum product"
10 means materials derived from petroleum, natural gas, or asphalt deposits and
11 includes gasoline, diesel and heating fuels, liquefied petroleum gases, lubricants,
12 waxes, greases, and petrochemicals.

13 **SECTION 55.** 101.142 (1) (b) and (2) of the statutes are renumbered 168.28 (1)
14 (b) and (2). *e*

15 **SECTION 56.** 101.143 (3) (a) 4. [✓] of the statutes is amended to read:

16 101.143 (3) (a) 4. The owner or operator registers the petroleum product
17 storage system or the home oil tank system is registered with the department of
18 agriculture, trade and consumer protection under s. ~~101.09~~ 168.23. *5*

19 **SECTION 57.** 101.19 (1[✓]~~r~~) of the statutes is amended to read:

20 101.19 (1~~r~~) Notwithstanding subs. (1g) and (1m), the department shall waive
21 any fee imposed on an individual who is eligible for the veterans fee waiver program
22 under s. 45.44 for a license, permit, or certificate of certification or registration issued
23 by the department under ss. ~~101.09 (3) (e)~~, s. 101.122 (2) (c), 101.143 (2) (g), 101.147,
24 101.15 (2) (e), 101.16 (3g), 101.17, 101.177 (4) (a), 101.178 (2) or (3) (a), 101.63 (2) or
25 (2m), 101.653, 101.73 (5) or (6), 101.82 (1m), (1v), and (2), 101.935, 101.95, 101.951.

101.952, 101.985 (1) to (3), 145.02 (4), 145.035, 145.045, 145.07 (12), 145.15, 145.16,
145.165, 145.17, 145.175, 145.18, or 167.10 (6m).

SECTION 58. Chapter 168 (title) of the statutes is repealed and recreated to read:

CHAPTER 168

PETROLEUM PRODUCTS

AND DANGEROUS SUBSTANCES

SECTION 59. Subchapter I (title) of chapter 168 [precedes 168.01] of the statutes is created to read:

CHAPTER 168

SUBCHAPTER I

PETROLEUM PRODUCT INSPECTIONS

SECTION 60. 168.01 (intro.) of the statutes is amended to read:

168.01 Definitions. (intro.) In this chapter subchapter:

SECTION 61. 168.01 (1) of the statutes is amended to read:

168.01 (1) "Department" means the department of ~~safety and professional~~
services agriculture, trade and consumer protection.

SECTION 62. 168.01 (2) of the statutes is renumbered 168.01 (4).

SECTION 63. 168.02 (title) of the statutes is repealed.

SECTION 64. 168.02 of the statutes is renumbered 168.01 (2).

SECTION 65. 168.03 (title) of the statutes is repealed.

SECTION 66. 168.03 of the statutes is renumbered 168.01 (3).

SECTION 67. 168.05 (1) of the statutes is amended to read:

168.05 (1) No petroleum product imported into and received in this state or
received from a manufacturer or refiner or from a marine or pipeline terminal within

1 this state may be unloaded from its original container except as provided under sub.
2 (5), sold, offered for sale or used until a true sample of not less than 8 ounces is taken
3 as provided in this ~~chapter~~ subchapter. This subsection does not apply if the
4 department has previously inspected the petroleum product at the refinery, marine
5 or pipeline terminal. Each person importing or receiving a petroleum product which
6 has not been previously inspected shall notify the inspector in the person's district
7 of the receipt thereof, and the inspector shall take a sample of the petroleum product.

8 **SECTION 68.** 168.06 (1) of the statutes is amended to read:

9 168.06 (1) For the purposes of administering this ~~chapter~~ subchapter,
10 inspectors may take samples of gasoline, gasoline–alcohol fuel blends, kerosene,
11 other refined oils, fuel oils and petroleum distillates for tests and make inspections
12 at any points within or without this state, and may open any original container
13 containing gasoline, gasoline–alcohol fuel blends, kerosene, other refined oils, fuel
14 oils and petroleum distillates and take a true sample of not less than 8 ounces of the
15 contents thereof, even though the original containers may still be in the possession
16 of a common or contract carrier, provided the opening and sampling does not unduly
17 inconvenience or hamper the transportation of the products. After the original
18 containers are opened and sampled the same shall be resealed with seals furnished
19 by the department for such purposes. The authority conferred by this section shall
20 be in addition to, and not in limitation of, any of the provisions of s. 168.05.

21 **SECTION 69.** 168.08 (1) of the statutes is amended to read:

22 168.08 (1) Time and place of each inspection.

23 **SECTION 70.** 168.09 of the statutes is amended to read:

24 **168.09 Authority to enter.** Any inspector may enter in or upon the premises
25 of any manufacturer, vendor, dealer or user of gasoline, gasoline–alcohol fuel blends,

1 kerosene, other refined oils, fuel oils and petroleum distillates, during regular
2 business hours to determine whether any petroleum product intended for sale or use
3 has not been sampled and inspected in accordance with this ~~chapter~~ subchapter.

4 **SECTION 71.** 168.125 of the statutes is amended to read:

5 **168.125 Reports; payment.** Persons who are liable for the fee under this
6 ~~chapter~~ subchapter shall state the number of gallons of petroleum products on which
7 the fee is due and the amount of their liability for the fee in the reports under s. 78.12
8 (1) to (3). The requirements for payment of the motor vehicle fuel tax under s. 78.12
9 (5) apply to the fee under this ~~chapter~~ subchapter.

10 **SECTION 72.** 168.15 of the statutes is amended to read:

11 **168.15 Penalty.** Every person who violates any provision of this ~~chapter~~
12 subchapter that is not related to the fee under s. 168.12 (1) shall forfeit not less than
13 \$10 nor more than \$100 for each violation. Each day a person fails to comply with
14 any provision of this ~~chapter~~ subchapter is a separate violation.

15 **SECTION 73.** 168.16 (1) of the statutes is amended to read:

16 168.16 (1) The department shall enforce this ~~chapter~~ subchapter. Inspection
17 districts shall be defined and numbered by the department.

18 **SECTION 74.** 168.16 (2) of the statutes is amended to read:

19 168.16 (2) Any accident or explosion involving products of petroleum which
20 comes to the knowledge of the department shall be investigated to determine
21 whether or not there has been a violation of this ~~chapter~~ subchapter.

22 **SECTION 75.** 168.16 (4) of the statutes is amended to read:

23 168.16 (4) The department may promulgate reasonable rules relating to the
24 administration and enforcement of this ~~chapter~~ subchapter.

25 **SECTION 76.** 168.17 of the statutes is amended to read:

168.17 Attorney general and district attorney to prosecute. Upon request of the department, the attorney general or proper district attorney shall prosecute any action to enforce this ~~chapter~~ subchapter except the fee that is imposed under s. 168.12 (1).

SECTION 77. 168.18 of the statutes is repealed.

SECTION 78. Subchapter II (title) of chapter 168 [precedes 168.21] of the statutes is created to read:

CHAPTER 168

SUBCHAPTER II

STORAGE OF DANGEROUS SUBSTANCES

SECTION 79. 168.21 (2) of the statutes is created to read:

168.21 (2) "Department" means department of agriculture, trade and consumer protection.

SECTION 9138. Nonstatutory provisions; Safety and Professional Services.

(1) REGULATION OF DANGEROUS MATERIALS.

(a) *Assets and liabilities.*

1. Except as provided in subdivision 2., on the effective date of this subdivision, the assets and liabilities of the department of safety and professional services that are determined by the secretary of administration to relate to the storage, use, and handling of flammable or combustible liquids or federally regulated hazardous substances under section 101.09, 2011 stats., become the assets and liabilities of the department of agriculture, trade and consumer protection.

1 2. The assets and liabilities that are determined by the secretary of
2 administration to relate to the reviewing of plans subject to section SPS 310.100, Wis.
3 Adm. Code, remain with the department of safety and professional services.

4 (b) *Employee transfer.* All incumbent employees who hold positions in the
5 department of safety and professional services that the secretary of administration
6 determines relate to the storage, use, and handling of flammable or combustible
7 liquids or federally regulated hazardous substances under section 101.09, 2011
8 stats., are transferred to the department of agriculture, trade and consumer
9 protection on the effective date of this subdivision.

10 (c) *Employee status.* Employees transferred under paragraph (b) have all the
11 rights and the same status under subchapter V of chapter 111 and chapter 230 of the
12 statutes in the department of agriculture, trade and consumer protection that they
13 enjoyed in the department of safety and professional services immediately before the
14 transfer. Notwithstanding section 230.28 (4) of the statutes, no employee so
15 transferred who has attained permanent status in class is required to serve a
16 probationary period.

17 (d) *Tangible personal property.*

18 1. Except as provided in subdivision 2., on the effective date of this subdivision,
19 all tangible personal property, including records, of the department of safety and
20 professional services that the secretary of administration determines relate to the
21 storage, use, and handling of flammable or combustible liquids or federally regulated
22 hazardous substances under section 101.09, 2011 stats., is transferred to the
23 department of agriculture, trade and consumer protection.

1 2. The tangible property, including records, that is determined by the secretary
2 of administration to relate to the reviewing of plans subject to section SPS 310.100,
3 Wis. Adm. Code, remains with the department of safety and professional services.

4 (e) *Contracts.*

5 1. Except as provided in subdivision 2., all contracts that were entered into by
6 the department of safety and professional services that the secretary of
7 administration determines to relate to the storage, use, and handling of flammable
8 or combustible liquids or federally regulated hazardous substances under section
9 101.09, 2011 stats., and that are in effect on the effective date of this subdivision
10 remain in effect and are transferred to department of agriculture, trade and
11 consumer protection. The department of agriculture, trade and consumer protection
12 shall carry out any obligations under such a contract until the contract is modified
13 or rescinded by the department of agriculture, trade and consumer protection to the
14 extent allowed under the contract.

15 2. Any contract that is determined by the secretary of administration to relate
16 to the reviewing of plans subject to section SPS 310.100, Wis. Adm. Code, remains
17 with the department of safety and professional services.

18 (f) *Rules and orders.*

19 1. Except as provided in subdivision 2., all rules promulgated, and all orders
20 issued, by the department of safety and professional services, that are determined
21 by the secretary of administration to relate to the storage, use, and handling of
22 flammable or combustible liquids or federally regulated hazardous substances under
23 section 101.09, 2011 stats., and that are in effect on the effective date of this
24 subdivision shall remain in effect until their specified expiration date or until

1 amended or repealed by the department of agriculture, trade and consumer
2 protection.

3 2. The rules and orders that are determined by the secretary of administration
4 to relate to reviewing of plans that is subject to section SPS 310.100, Wis. Adm. Code,
5 remain with the department of safety and professional services.

6 (g) *Pending matters.*

7 1. Except as provided in subdivision 2., any matter pending with the
8 department of safety and professional services on the effective date of this
9 subdivision that is determined by the secretary of administration to relate to the
10 storage, use, and handling of flammable or combustible liquids or federally regulated
11 hazardous substances under section 101.09, 2011 stats., is transferred to the
12 department of agriculture, trade and consumer protection, and all materials
13 submitted to or actions taken by the department of safety and professional services
14 with respect to the pending matter are considered as having been submitted to or
15 taken by the department of agriculture, trade and consumer protection.

16 2. Any pending matter that is determined by the secretary of administration
17 to relate to the reviewing of plans that is subject to section SPS 310.100, Wis. Adm.
18 Code remains with the department of safety and professional services.

19 **SECTION 9238. Fiscal changes; Safety and Professional Services.**

20 (1) TESTING OF PETROLEUM PRODUCTS. There is transferred from the
21 appropriation account under section 20.165 (2) (ga) of the statutes, as affected by this
22 act, to the appropriation account under section 20.115 (1) (gc) of the statutes, as
23 created by this act, an amount, as determined by the secretary of administration,
24 that equals the amount of fees that have been credited to the appropriation account
25 under section 20.165 (2) (ga) of the statutes, as affected by this act, under section

more to
p. 21

move to P.21 (continued)

101.02 (18m) of the statutes, as affected by this act, and that have not been expended or encumbered on or before the effective date of this subsection.

(2) FEDERAL AID FOR INSPECTIONS OF PETROLEUM PRODUCTS. There is transferred from the appropriation account under section 20.165 (2) (m) of the statutes to the appropriation account under section 20.115 (1) (m) of the statutes an amount, as determined by the secretary of administration, that equals the amount of moneys received from the federal government that have been credited to the appropriation under section 20.165 (2) (m) of the statutes for the state's administrative costs for general program operations relating to regulation under chapter 168 of the statutes, as affected by this act, and that have not been expended or encumbered on or before the effective date of this subsection.

(2) ~~(3)~~ PETROLEUM PRODUCT INSPECTION AND STORAGE.

LPS: this is ^{still} ~~an~~ unnumbered,
not a hard number

(a) *Assets and liabilities.* On the effective date of this paragraph, the assets and liabilities of the department of safety and professional services, that are determined by the secretary of administration to relate to the storage and inspection of petroleum products under section 101.142, 2011 stats., and chapter 168, 2011 stats., become the assets and liabilities of the department of agriculture, trade and consumer protection.

(b) *Employee transfer.* All incumbent employees who hold positions in the department of safety and professional services that the secretary of administration determines relate to the storage and inspection of petroleum products under section 101.142, 2011 stats., and chapter 168, 2011 stats., are transferred to the department of agriculture, trade and consumer protection on the effective date of this paragraph.

(c) *Employee status.* Employees transferred under paragraph (b) have all the rights and the same status under subchapter V of chapter 111 and chapter 230 of the

1 statutes in the department of agriculture, trade and consumer protection that they
2 enjoyed in the department of safety and professional services immediately before the
3 transfer. Notwithstanding section 230.28 (4) of the statutes, no employee so
4 transferred who has attained permanent status in class is required to serve a
5 probationary period.

6 (d) *Tangible personal property.* On the effective date of this paragraph, all
7 tangible personal property, including records, of the department of safety and
8 professional services that the secretary of administration determines to relate to the
9 storage and inspection of petroleum products under section 101.142, 2011 stats., and
10 chapter 168, 2011 stats., is transferred to the department of agriculture, trade and
11 consumer protection.

12 (e) *Contracts.* All contracts that were entered into by the department of safety
13 and professional services that the secretary of administration determines to relate
14 to the storage and inspection of petroleum products under section 101.142, 2011
15 stats., and chapter 168, 2011 stats., and that are in effect on the effective date of this
16 paragraph remain in effect and are transferred to department of agriculture, trade
17 and consumer protection. The department of agriculture, trade and consumer
18 protection shall carry out any obligations under such a contract until the contract is
19 modified or rescinded by the department of agriculture, trade and consumer
20 protection to the extent allowed under the contract.

21 (f) *Rules and orders.* All rules promulgated, and all orders issued, by the
22 department of safety and professional services, that are determined by the secretary
23 of administration to relate to the storage and inspection of petroleum products under
24 section 101.142, 2011 stats., and chapter 168, 2011 stats., and that are in effect on
25 the effective date of this paragraph shall remain in effect until their specified

1 expiration date or until amended or repealed by the department of agriculture, trade
2 and consumer protection.

3 (g) *Pending matters.* Any matter pending with the department of safety and
4 professional services on the effective date of this paragraph that is determined by the
5 secretary of administration to relate to the storage and inspection of petroleum
6 products under section 101.142, 2011 stats., and chapter 168, 2011 stats., is
7 transferred to the department of agriculture, trade and consumer protection, and all
8 materials submitted to or actions taken by the department of safety and professional
9 services with respect to the pending matter are considered as having been submitted
10 to or taken by the department of agriculture, trade and consumer protection.

11 (END)

← material from
PP. 18-19

LPS: d's
SECTION 9238
Fiscal changes

d. 1901a

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0387/dn
MGG:/...ph

gs
#sac

7

- date -

Corey ~~Stein~~ Stinebrink and Megan Stritchko:

✓

✓

This draft reconciles LRB-0387/6 and LRB-1092/1. Both of these drafts should continue to appear in the compiled bill.

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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0387/dn
MGG:cjs&sac:ph

February 13, 2013

Corey Stinebrink and Megan Stritchko:

This draft reconciles LRB-0387/6 and LRB-1092/1. Both of these drafts should continue to appear in the compiled bill.

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State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0387/7
MGG:sac:ph

DOA:.....Stritchko, BB0095 - Transfer of DSPS programs to DATCP

FOR 2013-2015 BUDGET — NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to: the budget.**

Analysis by the Legislative Reference Bureau

SAFETY AND PROFESSIONAL SERVICES

BUILDINGS AND SAFETY

Under current law, DSPS has various duties and powers relating to regulation of petroleum products and hazardous substances:

1. DSPS prescribes grade specifications for gasoline and similar fuels and administers laws regulating the inspection and sale of those fuels and other petroleum products.

2. DSPS regulates the installation, maintenance, and removal of tanks that contain flammable or combustible liquids or federally regulated hazardous substances (dangerous materials).

3. DSPS is required to administer a program to inventory aboveground and underground petroleum storage tanks.

This bill transfers these powers and duties except for those that relate to the reviewing of plans for dangerous materials from DSPS to DATCP.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.115 (1) (gc) of the statutes is created to read:

2 20.115 (1) (gc) *Testing of petroleum products.* All moneys received from fees
3 collected under s. 93.06 (1pm) for the testing of petroleum products under s. 93.06
4 (1pm).

 ****NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

5 **SECTION 2.** 20.115 (1) (t) of the statutes is created to read:

6 20.115 (1) (t) *Petroleum products; petroleum inspection fund.* From the
7 petroleum inspection fund, the amounts in the schedule for the purposes of ch. 168.

 ****NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

8 **SECTION 3.** 20.165 (2) (a) of the statutes is amended to read:

9 20.165 (2) (a) *General program operations.* The amounts in the schedule for
10 general program operations relating to the regulation of industry, buildings, and
11 safety under chs. 101, 107, and 145, ~~and 168~~ and ss. 167.10 and 167.27.

12 **SECTION 4.** 20.165 (2) (dm) of the statutes is renumbered 20.115 (1) (c) and
13 amended to read:

14 20.115 (1) (c) ~~*Storage*~~ *Petroleum products; storage tank inventory.* The amounts
15 in the schedule to conduct an inventory of aboveground petroleum product storage
16 tanks and unused underground petroleum product storage tanks under s. ~~101.142~~
17 168.28.

 ****NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

18 **SECTION 5.** 20.165 (2) (ga) of the statutes is amended to read:

19 20.165 (2) (ga) ~~*Auxiliary services*~~ *Publications and seminars.* All moneys
20 received from fees collected under s. 101.02 (18) ~~and (18m)~~ for the delivery of ~~services~~
21 publications and seminars under s. 101.02 (18) ~~and (18m)~~.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

1 **SECTION 6.** 20.165 (2) (j) of the statutes is amended to read:

2 20.165 (2) (j) *Safety and building operations.* The amounts in the schedule for
3 the purposes of chs. 101, and 145, ~~and 168~~ and ss. 167.35, 236.12 (2) (a), 236.13 (1)
4 (d) and (2m), and 236.335, for the purpose of transferring the amounts in the
5 schedule under par. (kg) to the appropriation account under par. (kg), and for the
6 purpose of transferring the amounts in the schedule under par. (km) to the
7 appropriation account under par. (km). All moneys received under ch. 145, ss.
8 101.178, 101.19, 101.63 (9), 101.654 (3), 101.73 (12), 101.82 (4), 101.955 (2), 101.973
9 (7), 167.35 (2) (f), and 236.12 (7) and all moneys transferred under 2005 Wisconsin
10 Act 45, section 76 (6), shall be credited to this appropriation.

11 **SECTION 7.** 20.165 (2) (ma) of the statutes is amended to read:

12 20.165 (2) (ma) *Federal aid-program administration.* All moneys received
13 from the federal government, as authorized by the governor under s. 16.54, to fund
14 the state's administrative costs for general program operations relating to the
15 regulation of industry, buildings and safety under chs. 101, 107, and 145 ~~and 168~~ and
16 ss. 32.19 to 32.27, 167.10, and 167.27.

17 **SECTION 8.** 20.165 (2) (r) of the statutes is amended to read:

18 20.165 (2) (r) *Safety and building operations; petroleum inspection fund.* From
19 the petroleum inspection fund, the amounts in the schedule for the purposes of ~~ch.~~
20 ~~168 and ss. 101.09, 101.142, and 101.1435~~ plan reviews relating to flammable or
21 combustible liquids or federally regulated hazardous substances.

****NOTE: This is reconciled s. 20.165 (2) (r). This SECTION has been affected by drafts with the following LRB numbers: LRB-0387 and LRB-1092.

22 **SECTION 9.** 25.47 (7) of the statutes is amended to read:

25.47 (7) The fees imposed under s. ~~101.09 (3) (d)~~ 101.02 (18r).

SECTION 10. 25.47 (8) of the statutes is created to read:

25.47 (8) The fees imposed under s. 168.23 (4).

SECTION 11. 45.44 (1) (a) 5. of the statutes is amended to read:

45.44 (1) (a) 5. A license, certification, registration, or permit issued under s. 94.10 (2), (3), or (3g), 94.50 (2), 94.704, 95.60, 97.17 (2), 97.175 (2), 97.22 (2), 98.145, 98.146, ~~or~~ 98.18 (1) (a), or 168.23 (3).

SECTION 12. 73.0301 (1) (d) 6m. of the statutes is created to read:

73.0301 (1) (d) 6m. A certificate or registration issued under 168.23 (3).

SECTION 13. 73.0301 (1) (e) of the statutes is amended to read:

73.0301 (1) (e) “Licensing department” means the department of administration; the department of agriculture, trade and consumer protection; the board of commissioners of public lands; the department of children and families; the government accountability board; the department of financial institutions; the department of health services; the department of natural resources; the department of public instruction; the department of safety and professional services; the department of workforce development; the office of the commissioner of insurance; or the department of transportation.

SECTION 14. 93.135 (title) of the statutes is amended to read:

93.135 (title) License denial, nonrenewal, suspension or restriction based on failure to pay support or taxes.

SECTION 15. 93.135 (1) (rg) of the statutes is created to read:

93.135 (1) (rg) A certification or registration under s. 168.23 (3).

SECTION 16. 93.135 (4) of the statutes is created to read:

1 93.135 (4) The department shall deny an application for the issuance or
2 renewal of certification or registration under s. 168.23 (3), or shall suspend or restrict
3 such a certification or registration, if the department of revenue certifies under s.
4 73.0301 that the holder of the certification or registration is liable for delinquent
5 taxes.

6 **SECTION 17.** 98.246 (1) of the statutes is amended to read:

7 98.246 (1) In this section, “petroleum products” has the meaning given under
8 s. ~~168.03~~ 168.01 (3).

9 **SECTION 18.** 101.02 (18m) of the statutes is renumbered 93.06 (1pm) and
10 amended to read:

11 93.06 (1pm) TESTING OF PETROLEUM PRODUCTS. The department may perform,
12 or contract for the performance of, testing of petroleum products other than testing
13 provided under ch. 168. The department may establish a schedule of fees for such
14 petroleum product testing services. The department shall credit all revenues
15 received from fees established under this subsection to the appropriation account
16 under s. ~~20.165 (2) (ga)~~ 20.115 (1) (gc). Revenues from fees established under this
17 subsection may be used by the department to pay for testing costs, including
18 laboratory supplies and equipment amortization, for such products.

19 **SECTION 19.** 101.02 (18r) of the statutes is created to read:

20 101.02 (18r) The department shall promulgate a rule specifying fees for plan
21 reviews relating to the storage, handling, or use of flammable or combustible liquids
22 or federally regulated hazardous substances, as defined in s. 168.21 (3).

23 **SECTION 20.** 101.09 (title) of the statutes is repealed.

24 **SECTION 21.** 101.09 (1) (intro.) of the statutes is renumbered 168.21 (intro.) and
25 amended to read:

168.21 Definitions. (intro.) In this section subchapter:

SECTION 22. 101.09 (1) (a) of the statutes is renumbered 168.21 (1).

SECTION 23. 101.09 (1) (am) of the statutes is renumbered 168.21 (3).

SECTION 24. 101.09 (1) (b) of the statutes is renumbered 168.21 (4).

SECTION 25. 101.09 (1) (c) of the statutes is renumbered 168.21 (5).

SECTION 26. 101.09 (1) (cm) of the statutes is renumbered 168.21 (6).

SECTION 27. 101.09 (1) (d) of the statutes is renumbered 168.21 (7).

SECTION 28. 101.09 (2) (title) of the statutes is renumbered 168.22 (title).

SECTION 29. 101.09 (2) (a) of the statutes is renumbered 168.22 (1) and amended to read:

168.22 (1) Except as provided under ~~pars. (b) to (d)~~ subs. (2) to (5), every person who constructs, owns or controls a tank for the storage, handling or use of liquid that is flammable or combustible or a federally regulated hazardous substance shall comply with the standards adopted under ~~sub. (3)~~ s. 168.23.

SECTION 30. 101.09 (2) (b) of the statutes is renumbered 168.22 (2) and amended to read:

168.22 (2) This section subchapter does not apply to storage tanks which require a hazardous waste license under s. 291.25.

SECTION 31. 101.09 (2) (c) of the statutes is renumbered 168.22 (3) and amended to read:

168.22 (3) This section subchapter does not apply to storage tanks which are installed above ground level and which are less than 5,000 gallons in capacity.

SECTION 32. 101.09 (2) (cm) (intro.) of the statutes is renumbered 168.22 (4) (intro.) and amended to read:

1 168.22 (4) (intro.) Any rules promulgated under ~~sub. (3)~~ s. 168.23 requiring an
2 owner to test the ability of a storage tank, connected piping or ancillary equipment
3 to prevent an inadvertent release of a stored substance do not apply to storage tanks
4 that satisfy all of the following:

5 **SECTION 33.** 101.09 (2) (cm) 1. to 3. of the statutes are renumbered 168.22 (4)
6 (a) to (c).

7 **SECTION 34.** 101.09 (2) (d) of the statutes is renumbered 168.22 (5) and
8 amended to read:

9 168.22 (5) This ~~section~~ subchapter does not apply to a pressurized natural gas
10 pipeline system regulated under 49 CFR 192 and 193.

11 **SECTION 35.** 101.09 (3) (title) of the statutes is renumbered 168.23 (title).

12 **SECTION 36.** 101.09 (3) (a) of the statutes is renumbered 168.23 (1).

13 **SECTION 37.** 101.09 (3) (b) of the statutes is renumbered 168.23 (2) and
14 amended to read:

15 168.23 (2) The department may transfer any information which the
16 department receives under ~~par. (a)~~ sub. (1) to any other agency or governmental unit.
17 The department and any such agency shall treat the name of the owner and the
18 location of any noncommercial storage tank which stores heating oil for consumptive
19 use on the premises, required to be submitted to the department under ~~par. (a)~~ sub.
20 (1), as confidential and shall not permit inspection or copying under s. 19.35 of any
21 record containing the information.

22 **SECTION 38.** 101.09 (3) (c) of the statutes is renumbered 168.23 (3) and
23 amended to read:

24 168.23 (3) The rule promulgated under ~~par. (a)~~ sub. (1) may require the
25 certification or registration of persons who install, remove, clean, line, perform

1 tightness testing on and inspect tanks and persons who perform site assessments.
2 Any rule requiring certification or registration shall also authorize the revocation or
3 suspension of the certification or registration. The department may not require an
4 individual who is eligible for the veterans fee waiver program under s. 45.44 to pay
5 any fee that may be charged pursuant to such a rule.

6 **SECTION 39.** 101.09 (3) (d) of the statutes is renumbered 168.23 (4) and
7 amended to read:

8 168.23 (4) The department shall promulgate a rule specifying fees for plan
9 review and inspection of tanks for the storage, handling, or use of flammable or
10 combustible liquids and for any certification or registration required under ~~par. (e)~~
11 sub. (3).

12 **SECTION 40.** 101.09 (3m) (title) of the statutes is renumbered 168.24 (title).

13 **SECTION 41.** 101.09 (3m) (a) of the statutes is renumbered 168.24 (1) and
14 amended to read:

15 168.24 (1) In this ~~subsection~~ section, “hazardous substance” means a
16 combustible liquid, a flammable liquid, or a federally regulated hazardous
17 substance.

18 **SECTION 42.** 101.09 (3m) (b) of the statutes is renumbered 168.24 (2) and
19 amended to read:

20 168.24 (2) The department may not impose any requirement that specifies that
21 pipe connections at the top of a storage tank and beneath all freestanding pumps and
22 dispensers that routinely contain a hazardous substance be placed within secondary
23 containment sumps, if the pipe connections were installed or in place on or before
24 February 1, 2009. This subsection section does not apply after December 31, 2020.

25 **SECTION 43.** 101.09 (4) (title) of the statutes is renumbered 168.25 (title).

1 **SECTION 44.** 101.09 (4) (a) of the statutes is renumbered 168.25 (1) and
2 amended to read:

3 168.25 (1) The department shall enforce this ~~section~~ subchapter.

4 **SECTION 45.** 101.09 (4) (b) of the statutes is renumbered 168.25 (2) and
5 amended to read:

6 168.25 (2) The department shall issue orders directing and requiring
7 compliance with the rules and standards of the department adopted under this
8 ~~section~~ subchapter whenever, in the judgment of the department, the rules or
9 standards are threatened with violation, are being violated or have been violated.

10 **SECTION 46.** 101.09 (4) (c) of the statutes is renumbered 168.25 (3).

11 **SECTION 47.** 101.09 (5) of the statutes is renumbered 168.26 and amended to
12 read:

13 **168.26 Penalties.** Any person who violates this ~~section~~ subchapter or any rule
14 or order adopted under this ~~section~~ subchapter shall forfeit not less than \$10 nor
15 more than \$5,000 for each violation. Each violation of this ~~section~~ subchapter or any
16 rule or order under this ~~section~~ subchapter constitutes a separate offense and each
17 day of continued violation is a separate offense.

18 **SECTION 48.** 101.14 (5) (a) of the statutes is amended to read:

19 101.14 (5) (a) Subject to par. (b), in addition to any fee charged by the
20 department by rule for plan review and approval for the construction of a new or
21 additional installation or change in operation of a previously approved installation
22 for the storage, handling or use of a liquid that is flammable or combustible or a
23 federally regulated hazardous substance, as defined in s. ~~101.09 (1) (am)~~ 168.21 (3),
24 the department shall collect a groundwater fee of \$100 for each plan review

1 submittal. The moneys collected under this subsection shall be credited to the
2 environmental fund for environmental management.

3 **SECTION 49.** 101.14 (5) (b) of the statutes is amended to read:

4 101.14 (5) (b) Notwithstanding par. (a), an installation for the storage,
5 handling or use of a liquid that is flammable or combustible or a federally regulated
6 hazardous substance, as defined in s. ~~101.09 (1) (am)~~ 168.21 (3), that has a capacity
7 of less than 1,000 gallons is not subject to the groundwater fee under par. (a).

8 **SECTION 50.** 101.142 (title) and (1) (intro.) of the statutes are renumbered
9 168.28 (title) and (1) (intro.).

10 **SECTION 51.** 101.142 (1) (a) of the statutes is renumbered 168.28 (1) (a) and
11 amended to read:

12 168.28 (1) (a) "~~Petroleum~~ Notwithstanding s. 168.01 (3), "petroleum product"
13 means materials derived from petroleum, natural gas, or asphalt deposits and
14 includes gasoline, diesel and heating fuels, liquefied petroleum gases, lubricants,
15 waxes, greases, and petrochemicals.

16 **SECTION 52.** 101.142 (1) (b) and (2) of the statutes are renumbered 168.28 (1)
17 (b) and (2).

18 **SECTION 53.** Chapter 168 (title) of the statutes is repealed and recreated to
19 read:

20 **CHAPTER 168**

21 **PETROLEUM PRODUCTS**

22 **AND DANGEROUS SUBSTANCES**

23 **SECTION 54.** Subchapter I (title) of chapter 168 [precedes 168.01] of the statutes
24 is created to read:

25 **CHAPTER 168**

SUBCHAPTER I

PETROLEUM PRODUCT INSPECTIONS

SECTION 55. 168.01 (intro.) of the statutes is amended to read:

168.01 Definitions. (intro.) In this ~~chapter~~ subchapter:

SECTION 56. 168.01 (1) of the statutes is amended to read:

168.01 (1) "Department" means the department of ~~safety and professional services~~ agriculture, trade and consumer protection.

SECTION 57. 168.01 (2) of the statutes is renumbered 168.01 (4).

SECTION 58. 168.02 (title) of the statutes is repealed.

SECTION 59. 168.02 of the statutes is renumbered 168.01 (2).

SECTION 60. 168.03 (title) of the statutes is repealed.

SECTION 61. 168.03 of the statutes is renumbered 168.01 (3).

SECTION 62. 168.05 (1) of the statutes is amended to read:

168.05 (1) No petroleum product imported into and received in this state or received from a manufacturer or refiner or from a marine or pipeline terminal within this state may be unloaded from its original container except as provided under sub. (5), sold, offered for sale or used until a true sample of not less than 8 ounces is taken as provided in this ~~chapter~~ subchapter. This subsection does not apply if the department has previously inspected the petroleum product at the refinery, marine or pipeline terminal. Each person importing or receiving a petroleum product which has not been previously inspected shall notify the inspector in the person's district of the receipt thereof, and the inspector shall take a sample of the petroleum product.

SECTION 63. 168.06 (1) of the statutes is amended to read:

168.06 (1) For the purposes of administering this ~~chapter~~ subchapter, inspectors may take samples of gasoline, gasoline-alcohol fuel blends, kerosene,

1 other refined oils, fuel oils and petroleum distillates for tests and make inspections
2 at any points within or without this state, and may open any original container
3 containing gasoline, gasoline–alcohol fuel blends, kerosene, other refined oils, fuel
4 oils and petroleum distillates and take a true sample of not less than 8 ounces of the
5 contents thereof, even though the original containers may still be in the possession
6 of a common or contract carrier, provided the opening and sampling does not unduly
7 inconvenience or hamper the transportation of the products. After the original
8 containers are opened and sampled the same shall be resealed with seals furnished
9 by the department for such purposes. The authority conferred by this section shall
10 be in addition to, and not in limitation of, any of the provisions of s. 168.05.

11 **SECTION 64.** 168.08 (1) of the statutes is amended to read:

12 168.08 (1) Time and place of each inspection.

13 **SECTION 65.** 168.09 of the statutes is amended to read:

14 **168.09 Authority to enter.** Any inspector may enter in or upon the premises
15 of any manufacturer, vendor, dealer or user of gasoline, gasoline–alcohol fuel blends,
16 kerosene, other refined oils, fuel oils and petroleum distillates, during regular
17 business hours to determine whether any petroleum product intended for sale or use
18 has not been sampled and inspected in accordance with this ~~chapter~~ subchapter.

19 **SECTION 66.** 168.125 of the statutes is amended to read:

20 **168.125 Reports; payment.** Persons who are liable for the fee under this
21 ~~chapter~~ subchapter shall state the number of gallons of petroleum products on which
22 the fee is due and the amount of their liability for the fee in the reports under s. 78.12
23 (1) to (3). The requirements for payment of the motor vehicle fuel tax under s. 78.12
24 (5) apply to the fee under this ~~chapter~~ subchapter.

25 **SECTION 67.** 168.15 of the statutes is amended to read:

168.15 Penalty. Every person who violates any provision of this ~~chapter~~ subchapter that is not related to the fee under s. 168.12 (1) shall forfeit not less than \$10 nor more than \$100 for each violation. Each day a person fails to comply with any provision of this ~~chapter~~ subchapter is a separate violation.

SECTION 68. 168.16 (1) of the statutes is amended to read:

168.16 (1) The department shall enforce this chapter subchapter. Inspection districts shall be defined and numbered by the department.

SECTION 69. 168.16 (2) of the statutes is amended to read:

168.16 (2) Any accident or explosion involving products of petroleum which comes to the knowledge of the department shall be investigated to determine whether or not there has been a violation of this ~~chapter~~ subchapter.

SECTION 70. 168.16 (4) of the statutes is amended to read:

168.16 (4) The department may promulgate reasonable rules relating to the administration and enforcement of this ~~chapter~~ subchapter.

SECTION 71. 168.17 of the statutes is amended to read:

168.17 Attorney general and district attorney to prosecute. Upon request of the department, the attorney general or proper district attorney shall prosecute any action to enforce this ~~chapter~~ subchapter except the fee that is imposed under s. 168.12 (1).

SECTION 72. 168.18 of the statutes is repealed.

SECTION 73. Subchapter II (title) of chapter 168 [precedes 168.21] of the statutes is created to read:

CHAPTER 168

SUBCHAPTER II

STORAGE OF DANGEROUS SUBSTANCES

1 **SECTION 74.** 168.21 (2) of the statutes is created to read:

2 168.21 (2) “Department” means the department of agriculture, trade and
3 consumer protection.

4 **SECTION 9138. Nonstatutory provisions; Safety and Professional**
5 **Services.**

6 (1) REGULATION OF DANGEROUS MATERIALS.

7 (a) *Assets and liabilities.*

8 1. Except as provided in subdivision 2., on the effective date of this subdivision,
9 the assets and liabilities of the department of safety and professional services that
10 are determined by the secretary of administration to relate to the storage, use, and
11 handling of flammable or combustible liquids or federally regulated hazardous
12 substances under section 101.09, 2011 stats., become the assets and liabilities of the
13 department of agriculture, trade and consumer protection.

14 2. The assets and liabilities that are determined by the secretary of
15 administration to relate to the reviewing of plans subject to section SPS 310.100, Wis.
16 Adm. Code, remain with the department of safety and professional services.

17 (b) *Employee transfer.* All incumbent employees who hold positions in the
18 department of safety and professional services that the secretary of administration
19 determines relate to the storage, use, and handling of flammable or combustible
20 liquids or federally regulated hazardous substances under section 101.09, 2011
21 stats., are transferred to the department of agriculture, trade and consumer
22 protection on the effective date of this subdivision.

23 (c) *Employee status.* Employees transferred under paragraph (b) have all the
24 rights and the same status under subchapter V of chapter 111 and chapter 230 of the
25 statutes in the department of agriculture, trade and consumer protection that they

1 enjoyed in the department of safety and professional services immediately before the
2 transfer. Notwithstanding section 230.28 (4) of the statutes, no employee so
3 transferred who has attained permanent status in class is required to serve a
4 probationary period.

5 (d) *Tangible personal property.*

6 1. Except as provided in subdivision 2., on the effective date of this subdivision,
7 all tangible personal property, including records, of the department of safety and
8 professional services that the secretary of administration determines relate to the
9 storage, use, and handling of flammable or combustible liquids or federally regulated
10 hazardous substances under section 101.09, 2011 stats., is transferred to the
11 department of agriculture, trade and consumer protection.

12 2. The tangible property, including records, that is determined by the secretary
13 of administration to relate to the reviewing of plans subject to section SPS 310.100,
14 Wis. Adm. Code, remains with the department of safety and professional services.

15 (e) *Contracts.*

16 1. Except as provided in subdivision 2., all contracts that were entered into by
17 the department of safety and professional services that the secretary of
18 administration determines to relate to the storage, use, and handling of flammable
19 or combustible liquids or federally regulated hazardous substances under section
20 101.09, 2011 stats., and that are in effect on the effective date of this subdivision
21 remain in effect and are transferred to department of agriculture, trade and
22 consumer protection. The department of agriculture, trade and consumer protection
23 shall carry out any obligations under such a contract until the contract is modified
24 or rescinded by the department of agriculture, trade and consumer protection to the
25 extent allowed under the contract.

1 2. Any contract that is determined by the secretary of administration to relate
2 to the reviewing of plans subject to section SPS 310.100, Wis. Adm. Code, remains
3 with the department of safety and professional services.

4 (f) *Rules and orders.*

5 1. Except as provided in subdivision 2., all rules promulgated, and all orders
6 issued, by the department of safety and professional services, that are determined
7 by the secretary of administration to relate to the storage, use, and handling of
8 flammable or combustible liquids or federally regulated hazardous substances under
9 section 101.09, 2011 stats., and that are in effect on the effective date of this
10 subdivision shall remain in effect until their specified expiration date or until
11 amended or repealed by the department of agriculture, trade and consumer
12 protection.

13 2. The rules and orders that are determined by the secretary of administration
14 to relate to reviewing of plans that is subject to section SPS 310.100, Wis. Adm. Code,
15 remain with the department of safety and professional services.

16 (g) *Pending matters.*

17 1. Except as provided in subdivision 2., any matter pending with the
18 department of safety and professional services on the effective date of this
19 subdivision that is determined by the secretary of administration to relate to the
20 storage, use, and handling of flammable or combustible liquids or federally regulated
21 hazardous substances under section 101.09, 2011 stats., is transferred to the
22 department of agriculture, trade and consumer protection, and all materials
23 submitted to or actions taken by the department of safety and professional services
24 with respect to the pending matter are considered as having been submitted to or
25 taken by the department of agriculture, trade and consumer protection.

1 2. Any pending matter that is determined by the secretary of administration
2 to relate to the reviewing of plans that is subject to section SPS 310.100, Wis. Adm.
3 Code remains with the department of safety and professional services.

4 (2) PETROLEUM PRODUCT INSPECTION AND STORAGE.

5 (a) *Assets and liabilities.* On the effective date of this paragraph, the assets and
6 liabilities of the department of safety and professional services, that are determined
7 by the secretary of administration to relate to the storage and inspection of
8 petroleum products under section 101.142, 2011 stats., and chapter 168, 2011 stats.,
9 become the assets and liabilities of the department of agriculture, trade and
10 consumer protection.

11 (b) *Employee transfer.* All incumbent employees who hold positions in the
12 department of safety and professional services that the secretary of administration
13 determines relate to the storage and inspection of petroleum products under section
14 101.142, 2011 stats., and chapter 168, 2011 stats., are transferred to the department
15 of agriculture, trade and consumer protection on the effective date of this paragraph.

16 (c) *Employee status.* Employees transferred under paragraph (b) have all the
17 rights and the same status under subchapter V of chapter 111 and chapter 230 of the
18 statutes in the department of agriculture, trade and consumer protection that they
19 enjoyed in the department of safety and professional services immediately before the
20 transfer. Notwithstanding section 230.28 (4) of the statutes, no employee so
21 transferred who has attained permanent status in class is required to serve a
22 probationary period.

23 (d) *Tangible personal property.* On the effective date of this paragraph, all
24 tangible personal property, including records, of the department of safety and
25 professional services that the secretary of administration determines to relate to the

1 storage and inspection of petroleum products under section 101.142, 2011 stats., and
2 chapter 168, 2011 stats., is transferred to the department of agriculture, trade and
3 consumer protection.

4 (e) *Contracts.* All contracts that were entered into by the department of safety
5 and professional services that the secretary of administration determines to relate
6 to the storage and inspection of petroleum products under section 101.142, 2011
7 stats., and chapter 168, 2011 stats., and that are in effect on the effective date of this
8 paragraph remain in effect and are transferred to department of agriculture, trade
9 and consumer protection. The department of agriculture, trade and consumer
10 protection shall carry out any obligations under such a contract until the contract is
11 modified or rescinded by the department of agriculture, trade and consumer
12 protection to the extent allowed under the contract.

13 (f) *Rules and orders.* All rules promulgated, and all orders issued, by the
14 department of safety and professional services, that are determined by the secretary
15 of administration to relate to the storage and inspection of petroleum products under
16 section 101.142, 2011 stats., and chapter 168, 2011 stats., and that are in effect on
17 the effective date of this paragraph shall remain in effect until their specified
18 expiration date or until amended or repealed by the department of agriculture, trade
19 and consumer protection.

20 (g) *Pending matters.* Any matter pending with the department of safety and
21 professional services on the effective date of this paragraph that is determined by the
22 secretary of administration to relate to the storage and inspection of petroleum
23 products under section 101.142, 2011 stats., and chapter 168, 2011 stats., is
24 transferred to the department of agriculture, trade and consumer protection, and all
25 materials submitted to or actions taken by the department of safety and professional

1 services with respect to the pending matter are considered as having been submitted
2 to or taken by the department of agriculture, trade and consumer protection.

3 **SECTION 9238. Fiscal changes; Safety and Professional Services.**

4 (1) TESTING OF PETROLEUM PRODUCTS. There is transferred from the
5 appropriation account under section 20.165 (2) (ga) of the statutes, as affected by this
6 act, to the appropriation account under section 20.115 (1) (gc) of the statutes, as
7 created by this act, an amount, as determined by the secretary of administration,
8 that equals the amount of fees that have been credited to the appropriation account
9 under section 20.165 (2) (ga) of the statutes, as affected by this act, under section
10 101.02 (18m) of the statutes, as affected by this act, and that have not been expended
11 or encumbered on or before the effective date of this subsection.

12 (2) FEDERAL AID FOR INSPECTIONS OF PETROLEUM PRODUCTS. There is transferred
13 from the appropriation account under section 20.165 (2) (m) of the statutes to the
14 appropriation account under section 20.115 (1) (m) of the statutes an amount, as
15 determined by the secretary of administration, that equals the amount of moneys
16 received from the federal government that have been credited to the appropriation
17 under section 20.165 (2) (m) of the statutes for the state's administrative costs for
18 general program operations relating to regulation under chapter 168 of the statutes,
19 as affected by this act, and that have not been expended or encumbered on or before
20 the effective date of this subsection.

21 (END)